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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,572	01/29/2001	Eva Kondorosi	200204US0PCT	5065

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

COLLINS, CYNTHIA E

ART UNIT

PAPER NUMBER

1638

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action****Application No.**

09/701,572

**Applicant(s)**

KONDOROSI ET AL.

**Examiner**

Cynthia Collins

**Art Unit**

1638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** (check either a) or b)

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 12-29.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_  
10. ☐ Other: \_\_\_\_\_

*Phuong Bui*  
PHUONG T. BUI  
PRIMARY EXAMINER

8/5/03

Continuation of 2. NOTE: newly added claims 30-31 are directed to "a nucleic acid", which raises new issues that would require further consideration and/or search under 35 USC §101; newly added claims 40-41 are directed to polynucleotides that encode a protein comprising amino acid residues 51-55 and 57 of SEQ ID NO:2, and a protein comprising amino acid residues 81, 84, 85, 90 and 91 of SEQ ID NO:2, which raises new issues that would require further consideration and/or search under 35 USC §112, 35 USC §102 and 35 USC §103; the amendment of claims 12 and 15 to recite "inhibits mitosis and induces endoreplication" raises new issues that would require further consideration and/or search under 35 USC §112, second paragraph, as it is unclear where and under what conditions mitosis would be inhibited and endoreplication would be induced.

Continuation of 5. does NOT place the application in condition for allowance because: the specification does not describe or enable fragments of SEQ ID NO:1 which comprise WD-40 motifs and which inhibit mitosis and induce endoreplication; the acronym "CCS52Ms" is indefinite; the addition of the limitation "wherein similarity is determined using the BLAST program" to claims 16 and 18 does not overcome the rejection under 35 U.S.C. 112, second paragraph, for indefiniteness in the recitation of "% similar" - it is suggested that the claims be amended to recite % "sequence identity" in order to overcome the rejection under 35 U.S.C. 112, second paragraph.